

RULE PROPOSAL

HEALTH AND SENIOR SERVICES

DIVISION OF SENIOR BENEFITS AND UTILIZATION MANAGEMENT

PROVISION OF PHARMACEUTICAL SERVICES UNDER THE PHARMACEUTICAL ASSISTANCE TO THE AGED AND DISABLED PROGRAM (PAAD)

Quantity of Medication

Proposed Amendment: N.J.A.C. 8:83C-1.16

Authorized By: Clifton R. Lacy, M.D., Commissioner, Department of Health and Senior Services.

Authority: N.J.S.A. 30:4D-20 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-187.

Submit written comments by July 16, 2004 to:

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A copy of the proposal is available for review at all offices of the Area Agencies on Aging, which are situated in all 21 counties.

The agency proposal follows:

Summary

The Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program was transferred from the Department of Human Services to the Department of Health and Senior Services (DHSS) pursuant to Executive Reorganization Plan No. 001-1996. Pursuant to this plan, the PAAD Program pharmacy manual was proposed for recodification from Title 10 of the New Jersey Code, N.J.A.C. 10:51-4, to Title 8, N.J.A.C. 8:83C, 30 N.J.R. 2197(a), June 15, 1998 and adopted 30 N.J.R. 3309(a), effective August 14, 1998. N.J.A.C. 8:83C was recently readopted (see 35 N.J.R. 4416(a) and 36 N.J.R. 2053(a)), with a current expiration date of April 19, 2009.

The subjects detailed in N.J.A.C. 8:83C pertain to the specific arrangements between licensed pharmacies, and the PAAD program administration and beneficiaries.

N.J.A.C. 8:83C-1.16, Quantity of medication, was recodified from N.J.A.C. 8:83C-1.14, effective June 15, 2003. See 34 N.J.R. 3456(a) and 35 N.J.R. 2642(a).

At N.J.A.C. 8:83C-1.16, definitions for "initial prescription claim" and "refill prescription claim" are added to clarify the quantity limitations. Adding this amendment to N.J.A.C. 8:83C simply revises the text to comport with current law at P.L. 1998, c.124.

N.J.A.C. 8:83C-1.16(a)3 sets the service dates for PAAD claims to which the supply limitations are applicable, to "on or after November, 1998," so as to conform with P.L. 1998, c.124. At N.J.A.C. 8:83C-1.16(d) the term "EMC claim" is amended to "Electronic Media Claim" as a clarification of the acronym.

Because the Division is providing a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The PAAD program positively impacts New Jersey residents who are 65 years of age or older, or who are under 65 and over 18 years of age and are receiving Social Security disability benefits, and meet the income eligibility requirements (\$20,437 for a single person, \$25,058 for a married couple in 2004).

The PAAD Program impacts pharmacy providers that participate in the program. These providers are subject to the program requirements described in these rules. Only pharmacies located in New Jersey are permitted to participate in PAAD.

The proposed amendment has no impact on PAAD beneficiaries since the limitation on the quantity of medication dispensed has been in effect since 1998 when legislation was enacted. This amendment revises the rule to be in compliance with the law; see P.L. 1998, c.124.

Economic Impact

PAAD beneficiaries are required to pay a co-payment per prescription pursuant to N.J.S.A. 30:4D-22. The current co-payment amount is \$5.00 per prescription. The proposed amendment contains no change regarding co-payment.

Providers are reimbursed in accordance with the policies set forth in this chapter. No change in reimbursement policy is proposed. There are no additional administrative costs associated with the rules proposed for amendment.

Federal Standards Statement

The PAAD Program is completely State-funded. Therefore, there are no Federal standards governing eligibility or services, as these are established by State law and rule.

The rules proposed for amendment are subject to, but do not exceed requirements of 42 U.S.C. §§ 1396 et seq.

Since any Federal requirements applicable to the rules are met, but not exceeded, no Federal standards analysis is required.

Jobs Impact

DHSS anticipates that the proposed amendments will have no job impact on pharmaceutical providers. There is no change in reimbursement policies; therefore, there should be no impact on employment. The Department anticipates that no jobs will be gained or lost as a result of the proposed amendments.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry in the State of New Jersey.

Regulatory Flexibility Analysis

The proposed amendment applies equally to all providers regardless of size. Some providers might be considered small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16. Providers are currently required to keep sufficient records to fully disclose the name of the recipient (beneficiary) to whom the service was rendered, the date of service, nature and extent of the service, and any additional information as may be required by statute N.J.S.A. 30:4D-12(d). The proposed amendment does not create any additional recordkeeping requirements. All pharmacy providers must operate under a valid retail and/or institutional permit issued by the Board of Pharmacy of the State of New Jersey, N.J.A.C. 8:83C-1.3(b)1. Pharmacy providers are required to be staffed by a registered pharmacist to provide pharmaceutical services pursuant to N.J.A.C. 13:39-1.2. Pharmacy providers may choose to retain other professional staff to submit claims but they are not required to do so. There are no capital costs associated with the proposed amendments.

Smart Growth Impact

The proposed amendment will have no impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows:

8:83C-1.16 Quantity of medication

- (a) Public Law 1998, c.124 establishes different days supply requirements for pharmacy claims based on the drug use history of a PAAD beneficiary. Days supply limitations for an Initial Prescription Claim for PAAD beneficiaries shall be different from days supply limitations for a Refill Prescription Claim.

[1. The following days supply limitations shall apply to PAAD claims:]

1. As used in this section, "Initial Prescription Claim" shall mean a PAAD claim for a drug not previously paid by the State during the 200-day calendar period immediately preceding the service date of a claim being considered for payment; or a PAAD claim with a service date that has exceeded two times the day's supply reported by the previously paid PAAD claim for the same prescription.
2. As used in this section, "Refill Prescription Claim" shall mean a PAAD claim for a previously paid prescription in which the time period between claims is less than or equal to two times the days supply reported by the previously paid PAAD claim for the same prescription. A Refill Prescription Claim may have the same or different prescription number.
3. For PAAD claims with service dates on or after November 1998, the following days supply limitations shall apply:
 - i.-ii. (No change.)

(b)-(c) (No change.)

- (d) Prescriptions shall not be split or reduced in quantity, unless the quantity prescribed exceeds Program limits, in which case the quantity shall be reduced to Program limits described in (a) above.

1. Exception: When the full quantity prescribed (within Program limits) is not available when a prescription is ready to be dispensed, the pharmacist shall retain the claim form or submit an [EMC claim] **Electronic Media Claim** after the balance of the medication is dispensed. The pharmacist may dispense the quantity available and shall notify the beneficiary accordingly.
2. (No change.)

(e) (No change.)